

REMARKS

Rejection of Claim under 35 USC §112

Claim 14 stands rejected under 35 USC §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicants regard as the invention. Specifically, Examiner objects to Applicants' use of the term, "nelfilcon" as being a trademark and/or trade name. Applicants traverse this rejection on the basis that nelfilcon is the non-proprietary name of a specific contact lens material assigned by the USAN (United States Assigned Names) Council. Thus, the term, "nelfilcon" is not a trademark or trade name, but instead, is a generic term referring to the specific chemical entity assigned that name by the USAN, and thus is not indefinite. Accordingly, Applicants respectfully request withdrawal of this rejection.

Provisional Rejection of Claims under Obviousness-Type Double Patenting

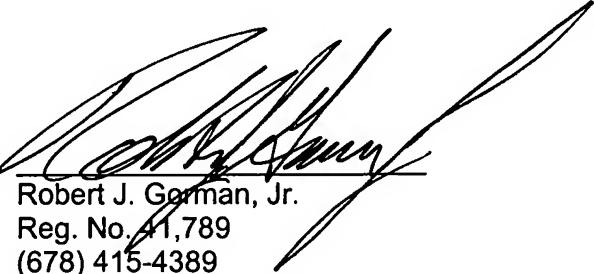
Claims 1 – 31 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 9 – 25 of copending application No. 10/676,764. Applicants submit herewith a Terminal Disclaimer to Obviate a Provisional Double Patenting Rejection over a Pending Application (PTO/SB/25) disclaiming the terminal part of the term of any patent arising from the present application extending beyond that of any patent issuing on the cited copending application. Applicants, therefore, submit that this rejection has been obviated, and request that it be withdrawn.

CONCLUSION

In view of the foregoing and in conclusion, Applicants submit that the pending claims are now in conditions for allowance. Applicants request reconsideration and withdrawal of the rejections set-forth in the Office Action.

Should the Examiner believe that a discussion with Applicants' representative would further the prosecution of this application, the Examiner is respectfully invited to contact the undersigned. Please address all correspondence to Robert Gorman, CIBA Vision, Patent Department, 11460 Johns Creek Parkway, Duluth, GA 30097. The Commissioner is hereby authorized to charge any other fees which may be required under 37 C.F.R. §§1.16 and 1.17, or credit any overpayment, to Deposit Account No. 50-2965.

Respectfully submitted,



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